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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/613,468	07/10/2000	Morten Sloth Weidner	030307-0220	9245
22428	7590	05/25/2006		
FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
			EXAMINER GOLLAMUDI, SHARMILA S	
			ART UNIT 1616	PAPER NUMBER

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/613,468

Applicant(s)

WEIDNER, MORTEN SLOTH

Examiner

Sharmila S. Gollamudi

Art Unit

1616

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 01 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☒ The Notice of Appeal was filed on 01 May 2006. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 41-44, 46-49 and 51.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO 1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
JOHANN RICHTER  
SUPERVISORY PATENT EXAMINER  
GROUP 16

The rejection of claim 45 under 112, second paragraph is withdrawn in view of the cancellation of the claim.

The rejection of claims 52-53, 56-58, 60-62, and 66 under 35 U.S.C 102(b) as being anticipated by WO 98/01126 is withdrawn in view of the cancellation of the claims.

The rejection of claims 52-53, 56-57, 60-62, and 66 under 35 U.S.C 102(b) as being anticipated by WO 99/63031 is withdrawn in view of the cancellation of the claims.

The rejection of claims 52-54, 56-58, 60-62, and 66 under 35 U.S.C 102(b) as being anticipated by Peers is withdrawn in view of the cancellation of the claims.

The rejection of claims 63-65 under 35 U.S.C 103(a) as being unpatentable over WO 98/01126 in view of Yuan et al is withdrawn in view of the cancellation of the claims.

The rejection of claims 59 and 67 under 35 U.S.C 103(a) as being unpatentable over WO 98/01126 in view of Yuan et al in further view of Vasquez is withdrawn in view of the cancellation of the claims.

The rejection of claims 41, 45-48, 50-51, 59, and 67 under 35 U.S.C. 103(a) as being unpatentable over WO 99/63031 to Alander in view of GB 932,662 is maintained for the reasons of record.

Applicant argues that Alander only teaches topical administration. Applicant argues that Alander does not teach systemic anti-inflammation effects or effects on muscle/joint inflammation. Applicant argues that although GB teaches *Butyrospermum parkii* has a cortisone effect, GB does not suggest an anti-inflammatory effect.

The rejection of claims 42 and 44 under 35 U.S.C. 103(a) as being unpatentable over WO 99/63031 to Alander in view of GB 932,662 in further view of WO 99/22706 is maintained for the reasons of record.

The rejection of claims 42-43 under 35 U.S.C. 103(a) as being unpatentable over WO 99/63031 to Alander in view of GB 932,662 in further view of Kweifo-okai et al (Antiarthritic Mechanisms of Amyrin Triterpenes, Research Communications in Molecular Pathology and Pharmacology, Vol. 85, No. 1, July 1994, pp. 45-55) is maintained for the reasons of record.

The rejection of claims 49 and 55 under 35 U.S.C. 103(a) as being unpatentable over WO 99/63031 to Alander in view of GB 932,662 in further view of SU 1181171 is maintained for the reasons of record.

Applicant's arguments have been fully considered but they are not persuasive. The examiner points out that the primary reference teaches the anti-inflammatory effects of the instant extract and teaches it may be used in a cosmetic or pharmaceutical preparation. See claim 15 particularly. The only teaching missing is an oral dosage form. Thus, the examiner relies on GB to cure this deficiency. GB teaches the instant extract may be used in a topical or oral form depending on the desired form. Therefore, the instant invention is considered *prima facie* obvious since art establishes that *Butyrospermum parkii* may be used in a topical or oral form.

With regard to the argument that GB does not explicitly teach that *Butyrospermum parkii* has anti-inflammatory properties, the examiner points out that Alander is not deficient in this sense since Alander teaches the anti-inflammatory effects of *Butyrospermum parkii*.

With regard to applicant's argument that Alander does not teach treating systemic anti-inflammation effects or effects on muscle/joint inflammation and only teaches dermatological inflammation, the examiner points out that the independent claim is broadly directed to "an inflammatory disease or disorder" which encompasses dermatological inflammatory disorders. Further, the examiner notes that claim 42 is directed to treating psoriasis, atopic eczema, contact dermatitis, which are all classified as dermatological inflammatory disorders.